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June 14, 2024

Office of Community Services
Administration for Children and Families
U.S. Department of Health and Human Services
(OMB #0970-0492, expiration date 6/30/24)
Email: <mailto:info@collection@acf.hhs.gov>

RE: CSBG Annual Report Revisions (OMB #0970-0492, expiration date 6/30/24)

Dear Office of Community Services:

I am writing on behalf of Community Action Program Legal Services, Inc. (CAPLAW) with comments on the different versions of the Community Services Block Grant (CSBG) Annual Report as published in the Federal Register on April 22, 2024, at 89 FR 29339.

CAPLAW is a 501(c)(3) membership organization that provides training and technical assistance on legal, governance, compliance and federal grants management issues to the nationwide network of approximately 1,000 CSBG eligible entities. Like the other CSBG network national partner organizations, CAPLAW supports efforts to build and strengthen a performance-driven culture within the CSBG network, including the development of a better system to track the way local CSBG-supported investments and projects are meeting the goals of the CSBG Act and to demonstrate impact and results.

We commend the Office of Community Service's (OCS's) goal of reducing the burden on the Community Action network with the proposed changes in CSBG Annual Report 3.0 (Version 3.0). We appreciate the opportunity to provide feedback on those changes and share overarching and specific comments.

General Comments

While we appreciate the intent behind Version 3.0, we are disappointed and concerned by the lack of network-wide engagement in the development of the revisions, the brief time frame for responding to the revisions, and the lack of impactful change. ***For these reasons, which are discussed in greater detail in this section and those below that address specific Modules, we are requesting that OCS only move forward at this time with CSBG Annual Report 2.1 (Version 2.1) and make revisions to it as requested, while simultaneously beginning the process of involving stakeholders at the local, state and national levels in the development of an updated CSBG Annual Report that truly reduces the burden on the Community Action network without compromising the value and importance of the data shared.***

Successful change in any area of Community Action has historically started at the grassroots level. Our network is driven by the principle that those we are assisting know their needs best and their voices must inform and direct the benefits and services they receive. This principle is baked into many aspects of the federal CSBG Act, from the maximum participation of residents served (42 U.S.C. § 9901(1)(D)) to the community needs assessment (42 U.S.C. § 9908(b)(11)) to the tripartite board (42 U.S.C. § 9910).

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The Community Action network strives to embody this principle even when it is not specifically required by the federal CSBG Act. As exemplified by the development of the CSBG Organizational Standards and, more recently, by our CARES Act work, CSBG funded efforts are most successful when state CSBG offices, state associations, and local agencies communicate regularly and work collaboratively to meet the needs of the communities they assist. We were therefore surprised and disheartened to learn that OCS had not holistically involved the Community Action network in developing its approach to Version 3.0. We recognize that revisions to the Annual Report are long overdue and that administrative influences can make collaborative efforts challenging; however, Community Action is a testament to how the most effective change is that which gives a more robust voice early in the process to all those affected by that change.

We understand that OCS must work within a specific timeframe if it is to make changes to the Annual Report at this time. However, because the changes in Version 3.0, as acknowledged by OCS, are so significant, it is counterintuitive and arguably not in alignment with the CSBG Act to rush them through a process, especially when the April announcement was the first chance provided to the Community Action network to review and respond to the revisions. The CSBG Act requires OCS to do more than engage in a formalized notice and comment process when establishing a performance framework, which includes reporting. Rather, the CSBG Act directs OCS to “collaborate” with state offices as well as the eligible entities with respect to these efforts. Section 9917(b)(1) (emphasis added) specifically states that:

*The Secretary, **in collaboration** with the States and with eligible entities through the Nation, shall facilitate the development of one or more model measurement systems, which may be used by the States and eligible entities to measure their performance in carrying out the requirements of this chapter and achieving the goals of their community action plans.*

It is also unclear how Version 3.0 reduces the burden on the Community Action network and results in impactful change with respect to elevating CSBG outcomes. It is quite difficult to identify an accurate statement of burden as the statements on the title pages of both Version 2.1 and Version 3.0 are the same and neither reflect the information provided in the federal register notice. The title pages both indicate that the:

Public reporting burden for this collection of information is estimated to average 198 hours per grantee and 697 hours per sub-grantee, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

It is equally unclear as to what factors were considered in determining any of the statements, all of which vary quite greatly. The consolidation and removal of indicators will result, at least over the next three to five years, in increased efforts and expenditures to revamp systems at both the state and local levels without any significant relief, as the remaining indicators are quite extensive. With Version 3.0, many indicators still exist but now are changed to an extent and degree that adapting to the changes will burden overly taxed and often understaffed state offices and eligible entities. Many in the Community Action network are still struggling to overcome the impacts of the pandemic on operations

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and infrastructure. The breadth of the changes in Version 3.0, coupled with the lack of stakeholder input in their development, has resulted in a version of the CSBG Annual Report that is more burdensome and less reflective of the diverse and impactful work supported by CSBG dollars.

Comments on Module 1: State Administration

The deletion and revision of several sections of Module 1 in Version 3.0 will lead to less accountability in the Community Action network while unnecessarily bringing attention to eligible entities experiencing difficulties.

Section B: Statewide Goals and Accomplishment in Version 2.1

The removal of Section B in Version 3.0 will result in Congress receiving an incomplete and potentially inaccurate understanding of the CSBG framework. State CSBG offices play a critical role in the ability of eligible entities to assist individuals and families with low incomes in an effective and timely manner. Actions by state CSBG offices can, and have, hampered the ability of eligible entities to meet the goals and purposes of the federal CSBG Act. Two HHS monitoring reports of state CSBG offices, one from 2018 focused on Wyoming and another from 2024 focused on Florida, exemplify the need to hold a state CSBG office accountable. Failure to do so could result in state CSBG offices withholding funds, not following the provisions of the federal CSBG Act, and implementing policies and measures that make it difficult for eligible entities to meet the goals and purposes of the CSBG Act.

If OCS moves forward with Version 3.0, we request that it maintain Section B as it is currently drafted in Version 2.1 or, if Section B is revised, to do so in a way that conveys to Congress the issues at the state level that are impacting the ability of eligible entities to meet the goals and purposes of the CSBG Act.

Section C: CSBG Eligible Entity Update, C.1 in Version 2.1

Section B: CSBG Eligible Entity Update, B.1. in Version 3.0

In table B.1 in Version 3.0, an option is added with no explanation. In the column “A change occurred during the reporting period (FFY)”, the word “Added” is included as an option. “Added” is not a term or concept that is reflected in the CSBG Act. Since there is no clear basis for this change in the CSBG Act and no explanation provided, it is impossible to respond to it.

We request that OCS remove the “Added” option from table B.1 if it moves forward with Version 3.0 since it is unclear what the revision is intended to reflect or address.

Section D. Organizational Standards for CSBG Eligible Entities in Version 2.1

The elimination of Section D in Version 3.0 is concerning and does not seem to align with the statutory parameters that establish the current performance framework. In the 2016 Federal Appropriations Act, Congress directed OCS to ensure that state CSBG offices adopt federal agency performance standards issued by September 30, 2016. The CSBG Organizational Standards set forth in OCS Information Memorandum (IM) 138 were thus adopted by state CSBG offices at the direction of OCS pursuant to the Appropriations Act. As set forth in IM 138, “[t]he purpose of the organizational standards is to ensure that all eligible entities have appropriate organizational capacity” as “the standards work together to

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characterize an effective and healthy organization.” The CSBG Organizational Standards indicate to Congress and parties external to the Community Action network that all eligible entities are required to meet the same base-line level of accountability. Section D, in turn, serves as confirmation that both state CSBG offices and eligible entities take their roles as fiscal stewards of federal funds seriously.

If Version 3.0 is adopted, rather than eliminate Section D, we request that OCS maintain all subsections in Section D, other than D.1, as those subsections reflect ongoing review of the CSBG Organizational Standards, compliance with the Standards, and collaborative efforts to meet the Standards.

Section E. State Use of CSBG Funds, E.7 in Version 2.1

Section C. State Use of CSBG Funds, C.6 in Version 3.0

To maintain accountability with respect to the use of state discretionary funds, the table associated with C.6 in Version 3.0 should continue to require a brief description of the services/activities provided with the funding. Furthermore, just as state CSBG offices report on carryover funds used by eligible entities (i.e., the 90%), states should also report on carryover funds that they use (i.e., the 10%). While a state CSBG office exercises broad authority relating to the use of the 10% discretionary funds, any use must still further the goals and purposes of the CSBG Act and meet the 5% state administrative limit, *see* 42 U.S.C. § 9907. As noted previously, HHS monitoring reports indicate the serious challenges faced by the Community Action network when state systems fail to properly account for the funding received. The information in the E.7 table as set forth in Version 2.1 provides Congress with a more complete picture of all CSBG funding and helps to emphasize a state’s obligations under the CSBG Act.

We request that, if Version 3.0 is adopted, OCS continue to require reporting on the services and activities provided with state discretionary funds (i.e., the 10%) as well as expenditure of state discretionary funds that are carried over from prior fiscal years, as such information is essential in showing how all CSBG funds are used and tracked.

Section D. State Training and Technical Assistance, D.1 in Version 3.0

We appreciate OCS’s focus on ensuring that the funds used by state CSBG offices for training and technical assistance (TTA) are meeting the needs of the Community Action network. However, the addition in Version 3.0 of the column “Evaluation Measures for TTA” in D.1 is confusing absent a specific explanation. The lack of information about this change makes responding to it in any substantive way difficult. The two sections of the federal CSBG Act that specifically speak to TTA simply require that TTA either address eligible entity needs and improve program quality or help correct a deficiency, *see* 42 U.S.C. §§ 9913(a)(2)(b) and 9915(a)(3)(A). The section of the Act that sets forth elements of the Annual Report only requires “a summary describing the training and technical assistance” offered by a state. 42 U.S.C. § 9917. “Evaluation Measures” can have a variety of meanings, from the base-line by which a state decides if a need is met to the tool that is used to assess the meeting of the need. Arguably, any description provided by the state as required by the Act would address whatever information is intended to be captured by “Evaluation Measures” such that the request for the additional information is unnecessarily redundant. Furthermore, information provided by states about “Evaluation Measures”

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without greater context runs the risk of giving Congress and external stakeholders an inaccurate understanding of effective TTA.

We request that, if Version 3.0 is adopted, OCS remove “Evaluation Measures for TTA” until further explanation is provided so that the Community Action network can understand the impact of the change and respond accordingly.

Section G. State Linkages and Communications, G.1, G.2, G.3 and G.5 in Version 2.1

Section E. State Linkages and Communications in Version 3.0

It is unclear why OCS is removing G.1, G.2, G.3 and G.5 from the 3.0 Revisions since those sections reflect critical actions state CSBG offices are required by the CSBG Act to ensure are occurring, *see* 42 U.S.C. § 9908(b). “Coordinating the use of a broad range of Federal, State, local, and other assistance” is also one of the central tenets of the CSBG Act and is a critical role played by CAAs in their local communities. 42 U.S.C. § 9901(2)(A). CSBG funds are often the smallest source of funding an eligible entity receives and both eligible entities and state CSBG offices maximize the impact of those dollars by using them to coordinate and link services in a variety of ways, including through referrals and case management. These essential and recognized uses of CSBG funds should be reflected in any Annual Report adopted by OCS.

We request that OCS maintain G.1, G.2, G.3 and G.5 from Version 2.1 if Version 3.0 is adopted, as coordinating and linking activities are seminal to the work the Community Action network does to assist those with low income and should be reported.

Section H. Monitoring, Corrective Action, and Fiscal Controls, H.4 and H.5 in Version 2.1

Section F. Monitoring, Corrective Action, and Fiscal Controls, F.4 and F.5 in Version 3.0

To avoid mischaracterizations and federal overreach, OCS should remove H.4. and F.4 and not adopt the changes in Version 3.0 to F.5. Technical Assistance Plans (TAPs) are not a recognized tool for addressing monitoring findings under the federal CSBG Act. The only recognized tool is a Quality Improvement Plan (QIP). The CSBG Act creates a clear system for corrective action, *see* 42 U.S.C. § 9915. A state may determine that an eligible entity is not in compliance with its CSBG agreement with the state, the state plan, or other state requirements. Once a noncompliance determination is made, the statute provides states with wide discretion regarding next steps. The state may provide TTA to the entity to address the noncompliance. Similarly, the state, at its discretion, may allow the entity to develop and implement a QIP to correct the noncompliance. If the state approves an entity’s QIP, it must report the approval to OCS within 30 days.

TAPs were proposed as an initial approach for addressing compliance with the CSBG Organizational Standards outside of the statutory corrective action framework, *see* OCS IM 138. In practice, TAPs are used by states and eligible entities as mutually beneficial tools to assist both parties in achieving common goals. It is therefore inappropriate for OCS to require that states report on their use of TAPs as if they were statutory corrective action tools overseen by OCS. The CSBG Act, HHS Block Grant regulations (45 C.F.R. Part 96, specifically 96.50(e)), and agency guidance give states broad discretion in their use of oversight tools, such as TAPs. This discretion has led states to use and tailor TAPs in different

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ways that benefit both states and eligible entities. Requiring reporting on TAPs as statutory tools of corrective action is outside the purview of OCS.

While we support accountability at all levels of the Community Action network, we do not understand the value in having a state report information that could lead to the singling out of individual CSBG eligible entities experiencing difficulties. Section H.5 in Version 2.1 provides sufficient information to alert Congress and OCS to where noncompliance issues exist, if they are persisting, and if the state is addressing them as required by the CSBG Act in 42 U.S.C. § 9915. Furthermore, there is inconsistency across state CSBG offices as to what is considered a “deficiency” and when a state may use a QIP or other corrective action tool, so asking for actual numbers can provide a potentially skewed picture of the health of a particular state network.

We request that OCS remove H.4 in Version 2.1 from any version of the Annual Report it ultimately adopts and maintains H.5. as drafted in Version 2.1 if OCS adopts Version 3.0.

Section H. Monitoring, Corrective Action, and Fiscal Controls, H.6 in Version 2.1

Section F. Monitoring, Corrective Action, and Fiscal Controls, F.6 in Version 3.0

The paraphrasing of the Uniform Guidance provision in the Note in H.6 and F.6 is incorrect. Furthermore, the Annual Report should reference HHS’s codification of the Uniform Guidance (45 C.F.R. Part 75). Section 75.501 requires a single audit if a non-federal entity “expends,” not “receives,” \$750,000 or more in federal awards during the non-federal entity’s fiscal year. Also, the threshold will increase to \$1,000,000 under the final version of the Uniform Guidance, effective October 1, 2024.

We request that, in any version of the Annual Report adopted by OCS, it update the language referring to single audits to (1) reflect that single audits are performed on entities that expend, not receive, a certain amount of federal funding, (2) reference HHS’s codification of the Uniform Guidance, and (3) account for the threshold increase that will trigger a single audit when the final revisions to the Uniform Guidance take effect on October 1, 2024.

Comments on Module 2: Eligible Entity Expenditures, Capacity and Resources and Module 3 (4 in Version 2.1): Individual and Family Level

We are concerned that the revisions to these two Modules in Version 3.0 are overstepping directives in the CSBG Act that inform how eligible entities must use CSBG funds. These Modules are intended to reflect an eligible entity’s use of CSBG funds as required by the CSBG Act. To receive CSBG funding from a state CSBG office, an eligible entity must submit a community action plan detailing how it will use CSBG funds to address the needs in its community and further the federal CSBG Act purposes and goals, see 42 U.S.C. § 9908(b)(11). An eligible entity is bound by its community action plan, which is informed by its needs assessment as required by the CSBG Act, to provide services and programs with the 90% allocation it receives from the state CSBG office. In other words, the federal CSBG Act is clear that an eligible entity is required to determine how it will spend its 90% allocation pursuant to the needs in its community and the purposes and goals of the CSBG Act.

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Version 3.0 limits reporting at the risk of inaccurately reflecting how CSBG funds are used while also inadvertently directing the use of CSBG funds, which is strictly prohibited under the federal CSBG Act. For example, in Module 2, Version 3.0 removes the expenditure domain for “Services Supporting Multiple Domains” and the detail relating to the “Agency Capacity Building” domain, even though there is a reference to the detail. In Module 3, multiple indicators are deleted and consolidated in such a way that certain work is not being captured. The negative impacts of this consolidation are compounded by the deletion of the “Other” categories in Module 3. The ultimate fear is that if there is no longer a way to report impactful, successful CSBG work, then funding for that work will stop, even though that reaction is in direct conflict with the CSBG Act. Furthermore, the limited options for reporting this work potentially discourages innovation in our network. A hallmark of CSBG funding is its flexibility and its responsiveness to the voices of those in need. The Community Action network must have an Annual Report that reflects the true nature and purpose of the CSBG funding. The

We therefore reiterate our overarching request that OCS only move forward at this time with Version 2.1 and revisions to it as requested while simultaneously beginning the process of involving stakeholders at the local, state and national levels in the development of an Annual Report that truly reduces the burden on the Community Action network without compromising the value and importance of the data shared.

Conclusion

OCS has a history of productive collaboration with the Community Action network on significant issues including CSBG data collection and accountability mechanisms. We believe that renewed cooperation is essential to meet the needs of not just Congress and OCS, but states and eligible entities as well. We look forward to working with OCS and other stakeholders on an Annual Report that presents the most accurate and accountable assessment of the amazing work performed by the Community Action network.

Thank you for your consideration of these comments.

Sincerely,

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